

JAN 30 1998

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket No. 97-239  
Table of Allotments, ) RM-9195  
FM Broadcast Stations. )  
(Otter Creek, Florida) )

To: Chief, Allocations Branch

**COMMENTS & COUNTERPROPOSAL  
OF  
DIXIE COUNTY BROADCASTERS**

Comes now **Dixie County Broadcasters** ("Dixie"), by Counsel, pursuant to the *Notice of Proposed Rule Making (DA 97-2552, released December 12, 1997) ("NPRM")*, and hereby respectfully submits these Comments & Counterproposal in the above-captioned Rule Making proceeding. In support hereof, Dixie submits the following:

**Background**

1. According to the NPRM, Tony Downes ("Downes") has requested that the Commission allot Channel 240A to Otter Creek, Florida. Although Downes indicates that Otter Creek has a population grouping of 136 people, the NPRM questions whether Otter Creek is a community for allocation purposes, and has asked Downes to submit such supporting information.

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### Counterproposal

2. Dixie requests that Channel 240C3 be allotted to the community of Horseshoe Beach, Florida so that that community may receive its first local aural transmission service.

3. Horseshoe Beach is qualified and deserving to receive the allotment since it is an incorporated community, is governed by an elected City Council, has its own volunteer fire department and water service, and its own postal zip code -- 32648.<sup>1</sup> In addition, Horseshoe Beach is listed in the most current U.S. Census report as hosting a population of 252. Generally if a community is incorporated or is listed in the U.S. Census, the community qualifies for FCC allotment purposes. *See generally, Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 101 (1992); Gretna, Marianna, Quincy and Tallahassee, Florida, 6 FCC Rcd 633 (1991).*

4. Since Dixie's counterproposal seeks first aural service to an unquestionable FCC-qualified community comprised of more persons than Otter Creek, the Commission policy must favor Dixie's counterproposal over the original proposal proffered by Downes. *See generally, Van Wert, Ohio and Monroeville, Indiana, 7 FCC Rcd. 6519 (1992).*

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<sup>1</sup> The Horseshoe Beach demographic information was obtained from the Dixie County Chamber of Commerce (telephone 352-498-5454).

5. From a technical standpoint, the allotment of Channel 240A to Horseshoe Beach, Florida fully complies with all applicable FCC Rules and Regulations. Attached hereto as **Exhibit No. 1** is a Technical Statement prepared by Clifton G. Moor of Bromo Communications, Inc., wherein it is demonstrated that Channel 240C3 can be allotted to Horseshoe Beach at reference coordinates North Latitude 29 - 26 - 27, and West Longitude 83 - 17 - 16.

6. Mr. Moor has also determined that a Class C3 station on Channel 240 at Horseshoe Beach would provide 60 dBu service to 13,955 persons within a 4,798 square kilometer area (of which 2,399 square kilometers is land).

#### **Statement of Interest**

7. Dixie hereby states that, in the event Channel 240C3 is allotted to Horseshoe Beach, Florida, it will file an FCC Form 301 Application with the Commission for the issuance of an FM Construction Permit for Channel 240C3 at Horseshoe Beach, Florida, or participate in any auction or alternative selection process that the Commission might institute in the future.

#### **Conclusion**

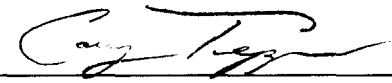
WHEREFORE, the above premises considered, Dixie respectfully requests

that its Comments and Counterproposal be ACCEPTED and that the Commission AMEND §73.202 of the Commission's Rules, as follows:

| <u>City &amp; State</u>  | <u>Existing</u> | <u>Proposed</u> |
|--------------------------|-----------------|-----------------|
| Horseshoe Beach, Florida | ---             | 240C3           |

Respectfully submitted,

**DIXIE COUNTY BROADCASTERS**

By:   
Cary S. Tepper

Its Attorney

***Booth, Freret, Imlay & Tepper, P.C.***  
5101 Wisconsin Avenue, N.W.  
Suite 307  
Washington, D.C. 20016-4120

(202) 686-9600

January 30, 1998

**Exhibit No. 1**

**(Technical Statement of Clifton G. Moor)**

**Requested Rulemaking  
Dixie County Broadcasters  
240C3-95.9 mHz  
Horseshoe Beach, Florida  
January 1998**

Technical Statement

This Technical Statement is prepared on behalf of Dixie County Broadcasters, proponent for the addition of Channel 240C3 at Horseshoe Beach, Florida.

Horseshoe Beach, Florida is an incorporated town with a population of 252 persons located on the Gulf of Mexico on Florida's West Coast. This would be the first service licensed to Horseshoe Beach.

Using the hypothetical geographic reference of 29° 26' 27" North Latitude and 83° 17' 16" West Longitude, all of the §73.207 allocation requirements are met or exceeded with the exception of the mutually exclusive proposal to add 240A to Otter Creek, Florida. From this hypothetical location in downtown Horseshoe Beach, 100% of the city of license is served by the 70 dBu city grade contour. Exhibit #1 is the §73.207 Allocation Study while Exhibit #2 indicates the class maximum coordinates drawn from the proposed allocation reference.

The hypothetical reference proposed herein is within the city of Horseshoe Beach, Florida. It is thought that this downtown area would not be an environmentally sensitive area. There are no known archaeological or historical sensitive areas nearby. There are no nearby airports that would have an adverse impact on tower construction. Although a future applicant may opt for a class maximum tower to support the Horseshoe, Beach antenna, from the allocation reference, there is no requirement for a tall supporting structure. Even a minimum Class C3 facility of 7.0 kW from 100 feet HAAT (30 meters) places a 70 dBu contour 9.29 km thus covering 100% of Horseshoe Beach, Florida

This proposal serves 13,955 persons within the 60 dBu contour according to the 1990 Census. The 60 dBu contour also covers 4,798 square kilometers some of which is the Gulf of Mexico. Excluding water approximately 2,399 square kilometers of land area is served.

If assigned to Horseshoe Beach, Florida, Dixie County Broadcasters will file for the right to construct this broadcast facility.

All information contained herein is thought to be true and correct to the knowledge of the undersigned.

A handwritten signature in black ink, appearing to read "Clifton G. Moor", is written over a horizontal line.

Clifton G. Moor  
Bromo Communications, Inc.  
Technical Consultant to Dixie County Broadcasters

January 29, 1998

**BROMO COMMUNICATIONS INC**  
(706) 782-7222 - (202) 429-0600

**New FM Proposal  
Dixie County Broadcasters**

|                                    |                        |                 |
|------------------------------------|------------------------|-----------------|
| REFERENCE                          | CLASS C3               | DISPLAY DATES   |
| 29 26 27 N                         |                        | DATA 01-24-98   |
| 83 17 16 W                         | Current rules spacings | SEARCH 01-29-98 |
| ----- CHANNEL 240 - 95.9 MHz ----- |                        |                 |

| CALL<br>TYPE                      | CH#<br>LAT                    | CITY<br>LNG  | STATE<br>PWR | BEAR'<br>HT | D-KM<br>D-Mi | R-KM<br>R-Mi | MARGIN<br>(KM) |
|-----------------------------------|-------------------------------|--------------|--------------|-------------|--------------|--------------|----------------|
| AD240                             | 240A                          | Otter Creek  | FL           | 113.2       | 45.00        | 142.0        | -97.00 *       |
| AD                                | 29 16 52                      | 82 51 42     | 0.000 kW     | OM          | 28.0         | 88.3         |                |
|                                   | Tony Downes                   |              |              |             | RM9195       |              | 971104         |
| >Site Restriction 9.8km Southwest |                               |              |              |             |              |              |                |
|                                   |                               |              |              |             |              |              |                |
| WEJZ                              | 241C                          | Jacksonville | FL           | 58.4        | 186.57       | 176.0        | 10.57          |
| LI CN                             | 30 19 22                      | 81 38 34     | 100.000 kW   | 300M        | 115.9        | 109.4        |                |
|                                   | Renda Broadcasting Corporatio |              |              |             | BLH881109KA  |              |                |
|                                   |                               |              |              |             |              |              |                |
| WHBX                              | 241C2                         | Tallahassee  | FL           | 313.9       | 132.42       | 117.0        | 15.42          |
| LI ZCN                            | 30 16 08                      | 84 16 32     | 37.000 kW    | 146M        | 82.3         | 72.7         |                |
|                                   | HVS Partners                  |              |              |             | BLH940329KZ  |              |                |
|                                   |                               |              |              |             |              |              |                |
| WQPW                              | 239C2                         | Valdosta     | GA           | 7.0         | 141.14       | 117.0        | 24.14          |
| LI CN                             | 30 42 17                      | 83 06 37     | 36.000 kW    | 174M        | 87.7         | 72.7         |                |
|                                   | Metro Media Broadcasting, Inc |              |              |             | BLH881026KA  |              |                |
|                                   |                               |              |              |             |              |              |                |
| ALOPEN                            | 242A                          | Yankeetown   | FL           | 129.3       | 71.87        | 42.0         | 29.87          |
| AL N                              | 29 01 47                      | 82 42 58     | 0.000 kW     | OM          | 44.7         | 26.1         |                |
|                                   | 92-60                         | WO= 930810   |              |             |              |              | 930909         |
| >Effective 8-9-93                 |                               |              |              |             |              |              |                |
|                                   |                               |              |              |             |              |              |                |
| AP242                             | 242A                          | Yankeetown   | FL           | 129.3       | 71.87        | 42.0         | 29.87          |
| AP CN                             | 29 01 47                      | 82 42 58     | 6.000 kW     | 100M        | 44.7         | 26.1         |                |
|                                   | Sabbath Incorporated          |              |              |             | BPH930909MB  |              | 940208         |

**\$73.207 Allocation Study**

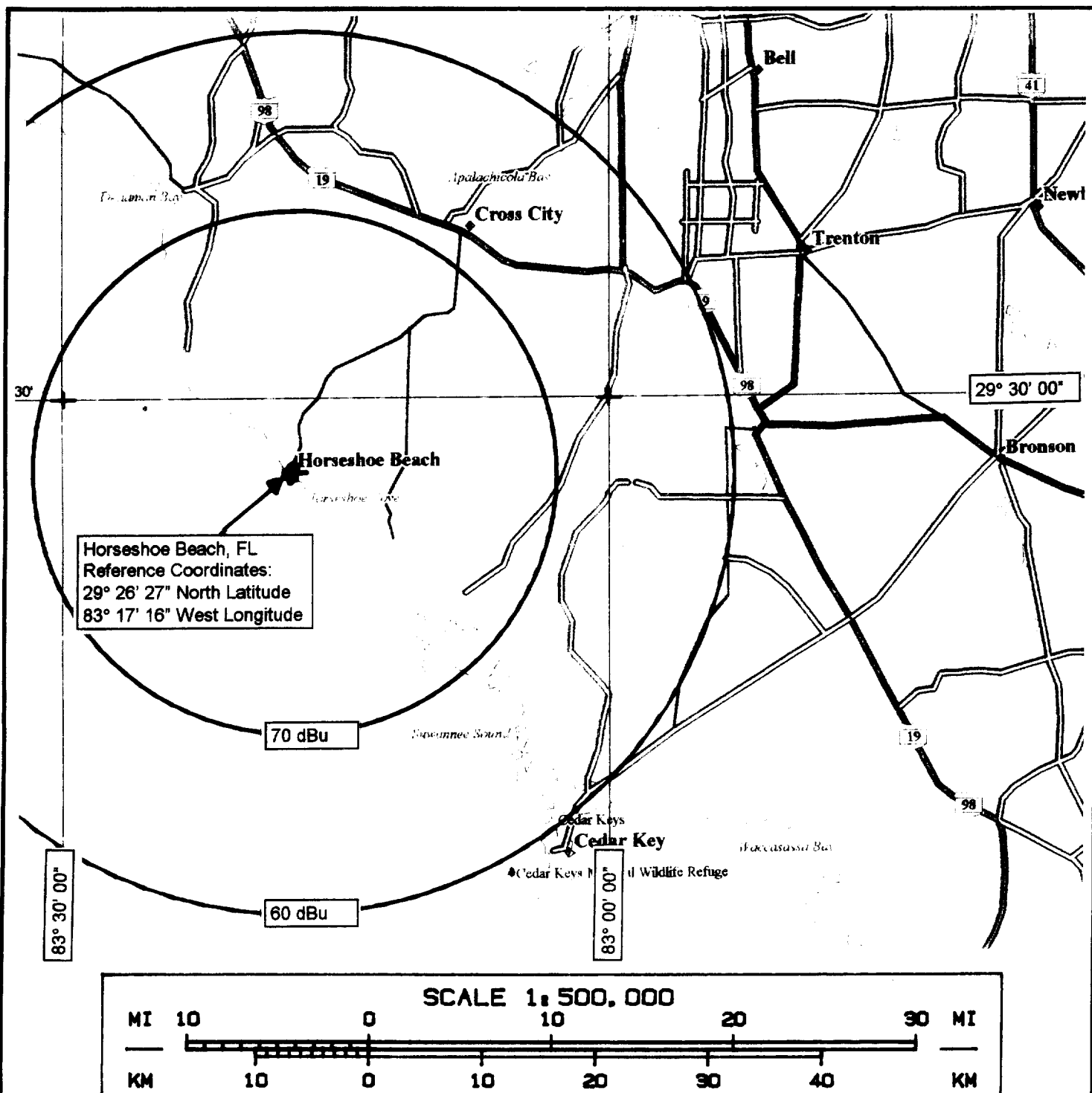
This proposal meets all allocation constraints except to the mutually exclusive proposal for Channel 240A at Otter Creek, Florida.

**EXHIBIT #1**  
**Requested Rulemaking**  
**Dixie County Broadcasters**  
240 C3 - 95.9 mHz  
Horseshoe Beach, FL  
January 1998

**BROMO**  
**COMMUNICATIONS**

BROADCAST  
TECHNICAL CONSULTANTS





### Proposed Coverage

From the proposed reference coordinates, the entire City of Horseshoe Beach, Florida is within the 70 dBu city grade contour.

Map ©1993 DeLorme Mapping

**EXHIBIT #2**  
**Requested Rulemaking**  
**Dixie County Broadcasters**  
240 C3 - 95.9 mHz  
Horseshoe Beach, FL  
January 1998

**BROMO**  
**COMMUNICATIONS**

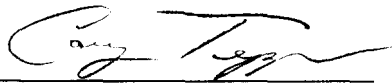
BROADCAST  
TECHNICAL CONSULTANTS

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 30th day of January, 1998, I have served a copy of the foregoing "**Comments & Counterproposal of Dixie County Broadcasters**" first-class, postage-prepaid, on the following:

\*John A. Karousos  
Chief, Allocations Branch  
Federal Communications Commission  
2020 M Street, N.W.; Room 554  
Washington, D.C. 20554

Tony Downes  
3092 SW Harbor Hills Road  
Dunellon, FL 34431  
(Petitioner)

A handwritten signature in cursive script, appearing to read "Cary Tepper", written over a horizontal line.

Cary S. Tepper, Esq.

\*/ indicates delivery by hand